

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5983 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

DHARMAJI KAVDAJI KHARADI

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Appearance:

MR SM MAZGAONKAR for Petitioner

MR HK RATHOD for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/08/97

ORAL JUDGEMENT

1. Challenge has been made by the petitioner to the award passed by the Labour Court, Rajkot, in Reference (LCR) No.1041/83 on 5-2-1992 under which the petitioner was directed to give the benefit of the time scale and other ancillary benefits etc. after 12-5-1989 to the respondent-workman within a period of 60 days from the publication of the award.

2. The facts which are not in dispute are that the respondent-workman was placed after selection in the list of Badli workers (Off-day reliever). He was not given the work as the incumbent on the post against which he was given the work as a off-day reliever had returned to the job. Taking it to be a case of termination he raised an industrial dispute which has been referred to the Labour Court. However, in reply to the statement of claim it has been mentioned that the respondent has already been given the employment as reliever watchman w.e.f. 12-5-1989. So the award has been passed for giving of the the respondent-workman the benefit of the time scale and other ancillary benefits after 12-5-1989.

3. The contention of the counsel for the petitioner is that under the award, the pay scale and other ancillary benefits could not have been given. Much emphasis has been laid down on the point that the increment could not have been given.

4. It is not in dispute that the respondent was given the daily wages as and when he was called upon to work as a off-day reliever. However, the counsel for the respondent states that as per the agreement entered into between the management and the Union, it has been decided that the off-day reliever will get the time scale i.e. what he submitted that the off-day relievers will get the wages for the day or the days on which they work calculated on the basis of the pay scale of the post plus D.A. thereon. That calculation will give the workmen the amount higher than what they will get as daily wagers. He very fairly submitted that the increment element may not be there. I do not find any illegality in the award to the extent it gives the direction to the petitioner to give the respondent, off-day reliever, the wages after 12-5-1989 for the day or days he worked as a off-day reliever, calculating on the basis of time scale i.e. the minimum of the pay scale plus permissible allowances thereon. However, the increment part may not be there.

5. So, in the result, this special civil application is disposed of with the clarification that under the award impugned in this writ petition, the respondent-workman shall be paid the wages for the day or days on which he worked as a off-day reliever calculating on the basis of the minimum of the pay scale and permissible allowances thereon. The special civil application and Rule therein stand disposed of in the aforesaid terms with no order as to costs.

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